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TAGS: [ENRG](#) [EFIN](#) [EPET](#) [PGOV](#) [PINR](#) [PREL](#) [UP](#) [RS](#)
SUBJECT: UKRAINE: RAID ON NAFTOHAZ LATEST TWIST IN
YUSHCHENKO/TYMOSHENKO SQUABBLE

REF: A. KYIV 107
[B](#). KYIV 134

Classified By: Economic Counselor Edward Kaska for reasons 1.4 b) and d).

[1](#). (C) Summary. On March 4, forces from the Ukrainian National Security Service (SBU), which falls under the authority of President Victor Yushchenko, raided Naftohaz headquarters to seize documents related to the transfer of 11 billion cubic meters (bcm) of stored RosUkrEnergo (RUE) gas to Naftohaz. RUE co-owner Dmytro Firtash alleges that Prime Minister Yulia Tymoshenko pressured customs officials to falsify documents and clear 6.3 bcm of the gas through customs on February 27. Naftohaz officials protested the SBU actions at the District Court and received an injunction halting the SBU action. Tymoshenko claims that the SBU is defending RUE's corruption. In the short run the actions will probably not disrupt the Russia/Ukraine gas deal signed by Tymoshenko and Russian Prime Minister Vladimir Putin in January. Whether the ongoing dispute could disrupt the agreement in the medium to long term may depend on how far Yushchenko is prepared to go to defend RUE interests. End summary.

SBU Goes After Naftohaz

[2](#). (SBU) Masked SBU forces raided Naftohaz headquarters on March 4, to seize documents related to the alleged illegal customs clearance of 6.3 bcm of the disputed 11 bcm of RUE gas. The troops from SBU's "Alpha" unit went to the office of the chief accountant and the customs section at Naftohaz. Naftohaz's acting director Ihor Didenko told us that the SBU forces were looking for the original contracts signed by Naftohaz and RUE from 2003 and 2004 (Didenko stated that Naftohaz gave copies of these contracts to the SBU), financial documents, and documents related to the customs clearance of the 6 bcm of gas. Naftohaz employees prevented the SBU from taking any original documents. Didenko successfully applied for an injunction to stop the SBU raid. In the injunction from the court, it states that the raid was conducted under orders from the Prosecutor General's Office. The court has scheduled a hearing on March 17 at which it will examine what legal basis the Prosecutor General has to open a criminal case in the matter of the 6 bcm of gas.

[3](#). (SBU) This was not the first action taken by the SBU to investigate the supposed illegal transfer and eventual customs clearance of the gas claimed by RUE's Firtash. Late in the evening on March 3 the SBU detained deputy head of

section of energy regional customs Taras Shepitko for his alleged involvement in the customs clearance of 6.3 bcm of gas. The Tymoshenko Bloc (BYuT) argued that the arrest was an attempt by Yushchenko to torpedo the gas deal signed by Tymoshenko and Russian PM Putin in January. Several BYuT deputies and lawyers came to the SBU building on the night of March 3 reportedly to give legal assistance to Shepitko.

¶4. (SBU) On the morning of March 4, following a presentation on the detention of Shepitko from SBU deputy head Valeriy Khoroshkovsky to Rada deputies, 226 deputies voted to instruct Speaker Lytvyn to ask the Prosecutor General's office to confirm the legality of the SBU's actions. It was shortly after this vote that BYuT deputies--along with TV cameras--made their way from the Rada to Naftohaz offices, where the SBU had already begun its raid. The BYuT deputies and Alpha troops scuffled before the troops eventually let the deputies enter the building. SBU forces also raided Naftohaz's daughter company, UkrTransGas, on the morning of March 5.

The Disputed Gas

¶5. (C) The dispute over the ownership of the 11 bcm of gas arose with the signing of the January Tymoshenko-Putin gas agreement (Ref A). As part of the agreement reached between Gazprom and Naftohaz, Gazprom transferred to Naftohaz a \$1.7 billion debt owed to it by RUE. Gazprom also transferred to Naftohaz 11 bcm of gas owned by RUE, of which Gazprom owns a 50 percent stake. This gas was intended, according to PM Advisor Vitaliy Haiduk, to be used by Ukraine as technical

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gas (Ref A) and was "sold" to Ukraine at a highly discounted rate (approximately \$154/tcm based on the RUE debt transferred from Gazprom to Naftohaz). RUE's Firtash claims, however, that both the transfer of the debt from Gazprom and the transfer of the gas to Naftohaz could not happen without his agreement. Naftohaz Acting Director Didenko told us that the gas was Naftohaz's and that Khoroshkovsky is overlooking the debt owed to Naftohaz by RUE.

¶6. (C) Late in January Naftohaz went to customs officials to ask for the gas to be cleared through customs. Khoroshkovsky, at the time head of the customs service and with links to RUE's Firtash, refused to do so and was forced out by the Cabinet of Ministers on January 28. President Yushchenko quickly named Khoroshkovsky First Deputy of the SBU. According to Firtash and press reports, some 6 bcm of the gas cleared through customs on February 27. Firtash told the Ambassador on March 2 (septel) that the chief accountant at Naftohaz refused to sign the paperwork and was replaced under orders from PM Tymoshenko.

¶7. (C) Comment. The SBU raid on Naftohaz appears to be yet another episode in the extended political struggle between the President and the Prime Minister. In February Yushchenko instructed the Prosecutor General's Office to launch a probe into the gas agreements with Russia. At the time Yushchenko criticized the deal and stated that Tymoshenko did not have the authority to agree to the terms set forth in Moscow, although he did state that Ukraine would abide by the terms of the agreement. Tymoshenko's alleged actions to clear RUE gas through customs for transfer to Naftohaz may in fact be illegal. If so, Yushchenko may have found an Achilles heel in the gas agreement that will allow him to strengthen his attacks on the Prime Minister. End comment.

TAYLOR